

R E M A R K S

Claims 1-21 and 23-39 are currently pending. Claims 12-21 and 33-37 have been withdrawn from consideration. No amendments have been made.

Rejection under 35 U.S.C. § 102

Claims 1-11 and 23-32, 38-39 stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent No. 6,007,580 to Lehto (“Lehto”). Applicants traverse this rejection because Lehto does not teach or suggest each and every element of claim 1.

Applicants submit that Lehto does not teach or suggest a connector that is constructed of autogeneous soft or fibrous tissue and that restricts the lateral movement of a spacer by contacting the outer surface of the spacer. When Lehto mentions a fixation part being constructed of a patient’s own tissue, Lehto specifically states that the fixation part penetrates the spacer:

[t]he fixation part can also be constructed of the patient’s own fibrous tissue, such as cord or ligament tissue, by placing a sufficiently long part of a cord or ligament to extend from one bone to be joined to the other, in a manner that the spacer part is placed between the bones and the cord or ligament *penetrates the spacer part.*

Col. 4, ll. 42-46 (emphasis added). Therefore with regards to a connector constructed of autogeneous soft or fibrous tissue, rather than restricting lateral movement of the spacer by contacting the outer surface of the spacer, Lehto’s connector restricts lateral movement of the spacer by penetrating the spacer. As noted by the specification of the present application, “because the connector maintains the position of the joint spacer in the joint cavity by contacting the outer surface of the spacer, there is no need for the connector to penetrate the joint spacer, thus eliminating the risk of damage of the joint spacer or connector.” Paragraph 19. As such, Applicants submit that Lehto does not anticipate the present claims and Applicants request withdrawal of this rejection.

Conclusion

Applicants submit that the subject application is in form for allowance, and respectfully requests that such action be taken. The Examiner is invited to telephone the undersigned at the telephone number indicated below if doing so would expedite prosecution. It is believed that no fee is due for submission of this response. Should any fees be required, please charge such fees to Kenyon & Kenyon LLP Deposit Account No. 11-0600.

Respectfully submitted,

KENYON & KENYON LLP

Dated: 6/30/06

By: Teresa Laky
Teresa A. Laky (Reg. No. 55,352)

Kenyon & Kenyon LLP
One Broadway
New York, New York 10004
Tel: (212) 425-7200
Fax: (212) 425-5288